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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,996	08/16/2004	Navarre Stephen Ginsberg		9383

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EXAMINER
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SWIATEK, ROBERT P

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/710,996	<b>Applicant(s)</b> GINSBERG, NAVARRE STEPHEN	
	<b>Examiner</b> Robert P. Swiatek	<b>Art Unit</b> 3643	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 August 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Lanham (US 2,379,724). The Lanham distributor includes a hopper 16 having a bottom 17 with an opening therein, a rotatable distribution controller 20 having a series of openings 21 and disposed upon the hopper bottom 17, a pair of wheels 14 mounted at opposed ends of an axle 13 and adapted to rotate the controller 20 through interengaging bevel gears 19, 33, a handle 12, a center peg 18 extending between one bevel gear 19 and controller 20, a distribution wheel 36, a guidance member 22, 24 located intermediately of the controller 20 and the distribution wheel 36, and a parking peg arrangement 15 that would serve to hold the distributor in an upright orientation. Applicant's statement of intended use has not been given weight inasmuch as the Lanham distributor could be employed to dispense animal feed rather than seeds.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lanham in view of Grether (US 2,742,196). The center peg or shaft 18 of Lanham lacks an attached stirrer for engaging the contents of the hopper. It would have been obvious to one skilled in the art to provide the shaft 18 of Lanham with a stirring device or agitator, in view of the teaching of Grether (see element 30 of Grether) that a rotating agitator keeps a granular material from clumping, allowing proper metering to occur.

Claims 2, 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 2 is unclear in that a hopper bottom opening is recited twice; moreover, the hopper of claim 2, lines 3, 4, previously was recited in claim 1, line 2. In claim 7, lines 2, 3, "the distribution wheel" lacks a prior antecedent basis.

Claims 1-9 are objected to because of the following informalities: Numerous extraneous semicolons appear throughout the claims (e.g., claim 1, lines 1-4, 6-9, 11); they should be deleted in any response to this action. Appropriate correction is required.

The disclosure is objected to because of the following informalities: The specification (including the title) and abstract are replete with extraneous semicolons; for example, page 6, line 9. They should be deleted in any response to this action.

Appropriate correction is required.

The patents to Stroud (US Re.10,166) and Speicher (US 4,867,381) have been cited to provide additional examples of spreaders for granular materials.